

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND COMPOUNDING )  
PHARMACY, INC., PRODUCTS LIABILITY )  
LITIGATION )  
 ) MDL No.: 2419  
 ) Master Docket No.: 1:13-md-2419-RWZ  
 )  
THIS DOCUMENT RELATES TO: )  
 )  
 )  
All Actions Against Specialty Surgery )  
Center and Dr. Kenneth Lister )

**DECLARATION OF BENJAMIN A. GASTEL**

Benjamin A. Gastel declares, under penalty of perjury on the date identified below, as follows:

1. I am an attorney at Branstetter, Stranch, and Jennings, PLLC, and our firm sits on the Plaintiffs' Steering Committee "(PSC)" in the above-referenced lawsuit (the "MDL"). I make this declaration in support of the contemporaneously filed Plaintiffs' Steering Committee's Opposition to SSC Defendants' Motion for Summary Judgment on Plaintiffs' Claims for Strict Product Liability and the Rule 56.1 Counter-Statement of Facts in support thereof.

2. Attached as Exhibit A is an article from *U. S. Centers for Disease Control and Prevention*.

3. Attached as Exhibit B is MDL Global Deposition Exhibit 33 from the deposition of Debra Schamberg.

4. Attached as Exhibit C is Defendants' Responses to PSC's 1<sup>st</sup> Set of Requests for Admissions and Corresponding Interrogatory.

5. Attached as Exhibit D is MDL Global Deposition Exhibit 32 from the deposition of Debra Schamberg.

6. Attached as Exhibit E is MDL Global Deposition Exhibit 35 from the deposition of Debra Schamberg.

7. Attached as Exhibit F is a USA Today article titled “*Safety concerns grow over pharmacy-mixed drugs.*”

8. Attached as Exhibit G is a joint report written by the American Society of Anesthesiologists, the American Society of Health-System Pharmacists (“ASHP”) and other medical societies.

9. Attached as Exhibit H is a May 2012 report from the CDC report regarding fungal infections arising from medications obtained from a compounding pharmacy.

10. Attached as Exhibit I is an article titled “The Committee on Energy and Commerce Majority Memorandum Re: Hearing on “The Fungal Meningitis Outbreak: Could It Have Been Prevented?”.

11. Attached as Exhibit J is MDL Global Deposition Exhibit 306 to the deposition of Francis Mcateer.

12. Attached as Exhibit K, **Filed Under Seal**, is MDL Global Deposition Exhibit 99 from the deposition of Ralph Atkinson.

13. Attached as Exhibit L, **Filed Under Seal**, is MDL Global Deposition Exhibit 100 from the deposition of Ralph Atkinson.

14. Attached as Exhibit M are excerpts from the deposition of Jean Atkinson.

15. Attached as Exhibit N are excerpts from the deposition of Jeffrey Ebel.

16. Attached as Exhibit O are excerpts from the deposition of Dr. Kenneth Lister.

17. Attached as Exhibit P are excerpts from the deposition of Gina Calisher.

18. Attached as Exhibit Q, **Filed Under Seal**, are Bates-labeled documents produced by SSC numbered SSC-07622 through SSC-007623.

19. Attached as Exhibit R, **Filed Under Seal**, are MDL Global Deposition Exhibits number 93 and 94 from the deposition of Dr. Kenneth Lister.

20. Attached as Exhibit S are excerpts from the deposition of Kimberly Bowlin.

21. Attached as Exhibit T is an Order Certifying Questions of Law to the Tennessee Supreme Court under Tennessee Supreme Court Rule 23, State Farm Fire and Casualty Co. v. Specialty Surgery Center, et al., No. 2:15-cv-00026, Dkt 115 (M.D. Tenn. Jun. 16, 2016)

I certify that all of the above copies of the afore-named exhibits are true and correct.

Executed on this 20<sup>th</sup> day of July, 2016, in Nashville, Tennessee.

/s/ Benjamin A. Gastel

Benjamin A. Gastel